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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Argentina, Austria,* Belgium,* Bosnia and Herzegovina,* Bulgaria,* Colombia,* Cyprus,* Czech Republic,* Finland,* Georgia,* Germany, Guatemala,* Ireland, Latvia, Liechtenstein,* Mexico, Netherlands, Norway,* Peru,* San Marino,* Slovakia,* Spain, Switzerland,* the former Yugoslav Republic of Macedonia: draft resolution

29/... Protection of human rights and fundamental freedoms while countering terrorism

The Human Rights Council,

Reaffirming its decision 2/112 of 27 November 2006 and its resolutions 6/28 of 14 December 2007, 7/7 of 27 March 2008, 10/15 of 26 March 2009, 13/26 of 26 March 2010, 19/19 of 23 March 2012 and 25/7 of 27 March 2014, and Commission on Human Rights resolutions 2003/68 of 25 April 2003, 2004/87 of 21 April 2004 and 2005/80 of 21 April 2005, recalling General Assembly resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006, 62/159 of 18 December 2007, 63/185 of 18 December 2008, 64/168 of 18 December 2009, 65/221 of 21 December 2010, 66/171 of 19 December 2011 and 68/178 of 18 December 2013, and welcoming the efforts of all relevant stakeholders to implement them,

1. *Calls upon* States to ensure that any measure taken to counter terrorism complies with international law, in particular international human rights, refugee and humanitarian law;

2. *Expresses serious concern* at the violations of human rights and fundamental freedoms, as well as of refugee and international humanitarian law, in the context of countering terrorism;

3. *Reaffirms* its strong and unequivocal condemnation of all acts, methods, practices and financing of terrorism, in all its forms and manifestations, wherever and by

* Non-member State of the Human Rights Council.

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whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renews its commitment to strengthen international cooperation to prevent and combat terrorism, and in that regard, calls upon States and other relevant actors, including regional and subregional organizations, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy and its four pillars, which reaffirm, inter alia, respect for human rights for all and the rule of law as being the fundamental basis of the fight against terrorism;

4. *Stresses* the responsibility of States to protect persons in their territory against such acts, in full compliance with their international law obligations and in particular with international human rights, refugee and humanitarian law;

5. *Reaffirms* the importance of ensuring that the protection of human rights and fundamental freedoms while countering terrorism is an essential component of the work and strategies of the United Nations for supporting Member States in the context of the fight against terrorism;

6. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with proper support and assistance;

7. *Urges* States, while countering terrorism, to respect and protect all human rights, including economic, social and cultural rights, bearing in mind that certain counter-terrorism measures may have an impact on the enjoyment of those rights;

8. *Reaffirms* that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group;

9. *Urges* States to ensure that measures taken to counter terrorism are not discriminatory, and not to resort to profiling based on stereotypes founded on ethnic, racial or religious grounds or any other ground of discrimination prohibited by international law;

10. *Recognizes* the work carried out by the special procedures of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism;

11. *Acknowledges* that the active participation of civil society can reinforce ongoing governmental efforts to protect human rights and fundamental freedoms while countering terrorism;

12. *Calls upon* States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law, in particular under international human rights law, and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights;

13. *Urges* States to ensure that gender equality and non-discrimination are taken into account when shaping, reviewing and implementing all counter-terrorism measures;

14. *Calls upon* States, while countering terrorism, to ensure that any person who alleges that his or her human rights or fundamental freedoms have been violated has access to an effective remedy and that victims of human rights violations receive adequate, effective and prompt reparations, which should include, as appropriate, restitution, compensation, rehabilitation and guarantees of non-recurrence;

15. *Also calls upon* States, while countering terrorism, to review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and

effective implementation of all their obligations under international human rights law, and urges them to take measures to ensure that interference with the right to privacy is regulated by law, which must be publicly accessible, clear, precise, comprehensive and non-discriminatory, and that such interference is not arbitrary or unlawful, bearing in mind what is reasonable to the pursuance of legitimate aims;

16. *Urges* States to ensure that any measure taken or means employed to counter terrorism, including the use of remotely piloted aircraft, complies with their obligations under international law, including international human rights law and international humanitarian law;

17. *Also urges* States to undertake prompt, independent and impartial fact-finding inquiries whenever there are plausible indications of breaches of their obligations under international human rights law as a result of any measures taken or means employed to counter terrorism, and to ensure accountability for those responsible for violations that amount to crimes under national or international law;

18. *Notes with concern* measures that can undermine human rights and the rule of law, such as the detention of persons suspected of acts of terrorism in the absence of a legal basis for detention and due process guarantees, the unlawful deprivation of the right to life, and other fundamental freedoms, such as freedom of assembly and association, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, the trial of suspects without fundamental judicial guarantees, the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, the return of suspects to countries without individual assessment of the risk of there being substantial grounds for believing that they would be in danger of subjection to torture, and limitations to effective scrutiny of counter-terrorism measures;

19. *Stresses* that all measures used in the fight against terrorism, including the profiling of individuals and the use of diplomatic assurances, memorandums of understanding and other transfer agreements or arrangements, must be in compliance with the obligations of States under international law, including international human rights, refugee and humanitarian law;

20. *Urges* States, while countering terrorism, to respect the rights to be equal before the courts and tribunals and to a fair trial, as provided for by international law, including international human rights law, such as article 14 of the International Covenant on Civil and Political Rights and, as applicable, international humanitarian law and refugee law;

21. *Also urges* States to take measures to ensure that counter-terrorism laws and implementing measures are consistent with and are applied in a manner that fully respects the rights compliant with articles 10 and 11 of the Universal Declaration of Human Rights and further codified in articles 14 and 15 of the International Covenant on Civil and Political Rights, in particular to ensure respect of the principle of certainty of the law by clear and precise provisions;

22. *Reiterates its concern* with regard to measures that can undermine human rights and the rule of law, and urges all States to take all necessary steps to ensure that persons deprived of their liberty, regardless of the place of arrest or detention, enjoy the guarantees to which they are entitled under international law, including review of their detention and other fundamental judicial guarantees;

23. *Takes note* of the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism;[1]

24. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism;[2]

25. *Requests* the Special Rapporteur, in accordance with his mandate, to continue to gather, request, receive and exchange information on alleged violations of human rights and fundamental freedoms while countering terrorism, and to report regularly to the Human Rights Council;

26. *Requests* all States to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to urgent appeals and providing the information requested, and to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

27. *Encourages* United Nations bodies, agencies, funds and programmes involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms, as well as due process and the rule of law, while countering terrorism;

28. *Requests* the High Commissioner and the Special Rapporteur to contribute further, appropriately, to the ongoing discussion regarding the efforts of States Members of the United Nations to put in place adequate human rights guarantees to ensure fair and clear procedures, in particular with regard to placing individuals and entities on, and removing them from, terrorism-related sanctions lists;

29. *Recalls* that the General Assembly, in its resolution 66/171, recognized the need to continue ensuring that fair and clear procedures under the United Nations terrorism-related sanctions regime are strengthened in order to enhance their efficiency and transparency, and welcomed and encouraged the ongoing efforts of the Security Council in support of those objectives, including by supporting the enhanced role of the office of the ombudsperson and continuing to review all the names of individuals and entities in the regime, while emphasizing the importance of sanctions in countering terrorism;

30. *Stresses* the importance that relevant United Nations bodies and entities and international, regional and subregional organizations, in particular those that are participating in the Counter-Terrorism Implementation Task Force, that provide technical assistance relating to the prevention and suppression of terrorism to consenting States, include, as appropriate and where consistent with their mandates, respect of international human rights law and, as applicable, international humanitarian law and refugee law, as well as the rule of law, as an important element of the technical assistance that they offer to States in the area of counter-terrorism, including by drawing on the advice of, and otherwise ensuring ongoing dialogue with, the special procedures of the Human Rights Council within their mandates and the Office of the High Commissioner and relevant stakeholders;

31. *Requests* the High Commissioner and the Special Rapporteur to present their reports, bearing in mind the content of the present resolution, to the Human Rights Council under agenda item 3, in conformity with its annual programme of work.

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[1] A/HRC/29/51.

[2] A/HRC/28/28.